

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RONALD BRATTON,  
Petitioner,

vs.

B. CURRY, Warden,  
Respondent.

No. C 09-0550 JSW (PR)

**ORDER DENYING PETITION FOR  
WRIT OF HABEAS CORPUS AND  
CERTIFICATE OF APPEALABILITY;  
DENYING MOTION TO ISSUE WRIT**

(Docket No. 23)

Petitioner, a prisoner of the State of California, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition challenges the decision by the California Board of Parole Hearings (“Board”) to deny him parole in 2006.

Petitioner’s claims all challenge the sufficiency of the evidence underlying the denial of parole and the Board’s finding that he would pose an unreasonable risk of danger to the public if released. The United States Supreme Court has recently held that a California prisoner is entitled to only “minimal” procedural protections in connection with a parole suitability determination. *Swarthout v Cooke*, No 10-333, slip op. at 4-5 (U.S. Jan. 24, 2011). Specifically, the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution only entitles a California prisoner to an opportunity to be heard and a statement of the reasons why parole was denied. *Id.* at 4-5. The parole hearing transcript makes it clear that Petitioner received an opportunity to be heard and a statement of the reasons parole was denied. The Constitution does not require more. *Id.*

1 at 5. The Court further explained that no Supreme Court case "supports converting  
2 California's 'some evidence' rule into a substantive federal requirement." *Id.* It is  
3 simply irrelevant in federal habeas review "whether California's 'some evidence' rule of  
4 judicial review (a procedure beyond what the Constitution demands) was correctly  
5 applied." *Id.* at 6. In light of the Supreme Court's determination that due process does  
6 not require that there be any amount of evidence to support the parole denial, Petitioner's  
7 claims challenging the sufficiency of such evidence fail.

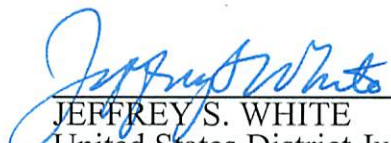
8 Accordingly, the petition for a writ of habeas corpus is DENIED. Rule 11(a) of  
9 the Rules Governing Section 2254 Cases now requires a district court to rule on whether  
10 a Petitioner is entitled to a certificate of appealability in the same order in which the  
11 petition is decided. Petitioner has failed to make a substantial showing that his claims  
12 amounted to a denial of his constitutional rights or demonstrate that a reasonable jurist  
13 would find this Court's denial of his claim debatable or wrong. *Slack v. McDaniel*, 529  
14 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted in this  
15 case.

16 Petitioner's motion to issue the writ (docket number 23) is DENIED.

17 The Clerk shall enter judgment and close the file.

18 IT IS SO ORDERED.

19 DATED: FEB 17 2011

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21 JEFFREY S. WHITE  
22 United States District Judge  
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